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26875 7590 03/18/2010 WOOD, HERRON & EVANS, LLP 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202			EXAMINER  PAPE, JOSEPH	
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* AARON DELONG, FRANK L. VIOLET, GERALD KRAUSE,  
and JOHN APPLIN

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Appeal 2009-003759  
Application 10/710,711  
Technology Center 3600

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Decided: March 18, 2010

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Before MICHAEL W. O'NEILL, STEFAN STAICOVICI, and  
FRED A. SILVERBERG, *Administrative Patent Judges*.

O'NEILL, *Administrative Patent Judge*.

DECISION ON APPEAL

## STATEMENT OF THE CASE

Aaron DeLong et al. (Appellants) seek our review under 35 U.S.C. § 134 of the final rejection of claims 8-15. Appellants canceled claims 1-7 and 16-20. We have jurisdiction under 35 U.S.C. § 6(b) (2006).

### *The Invention*

The claimed invention is to consoles for automotive interiors. Spec., para [0001].

Claim 8, reproduced below, is illustrative of the subject matter on appeal.

8. A multipurpose console for use in a vehicle, comprising:
- a housing comprising:
    - a power contact adapted to cooperate with a power source of the vehicle to provide power to the console;
    - a latching mechanism, the latching mechanism being fixedly secured to a lower surface of the housing and configured to releasably engage a mounting mechanism of the vehicle so that the housing may be fastened thereto and removed therefrom; and
    - a transport device configured to removably connect with the housing to transport the housing when the housing is removed from the vehicle.

### *The Prior Art*

The Examiner relies upon the following as evidence of unpatentability:

Johnson	US 3,827,772	Aug. 6, 1974
Gaus	US 4,545,211	Oct. 8, 1985
Soeters	US 5,106,143	Apr. 21, 1992
Larsen	US 2003/0122392 A1	Jul. 3, 2003
Grabowski	US 6,811,197 B1	Nov. 2, 2004

*The Rejections*

The following Examiner's rejections are before us for review:

(A) Claims 8, 11, and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Soeters in view of Larsen.

(B) Claims 9 and 10<sup>1</sup> are rejected under 35 U.S.C. § 103(a) as being unpatentable over Soeters in view of Larsen and further in view of Johnson.

(C) Claims 13 and 14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Soeters in view of Larsen and further in view of Grabowski.

(D) Claim 15 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Soeters in view of Larsen and further in of Gaus and Johnson.

*Contentions*

Appellants contend that Soeters fails to disclose a latching mechanism and the transport device as set forth in claim 8. Appellants contend that the latching mechanism identified by the Examiner is not fixedly secured to a lower surface of the console because Soeters fails to have a lower surface. Appellants contend that because the console of Soeters is not intended to be used in other places beside the vehicle, a transport device is not required. Appellants contend that the Examiner's utilization of Larsen to teach a transport device is improper because the totes are not consoles, but instead

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<sup>1</sup> While the statement of the ground of rejection omits listing claim 10, the Examiner provides a statement as to how the combination renders obvious claim 10. *See* Ans. 5. Appellants argue for patentability of claim 10. App. Br. 6. Therefore, claim 10 will be considered in this appeal as having been rejected over Soeters in view of Larsen and Johnson.

components of a console. As such, according to Appellants, Larsen's teachings would lead a person of ordinary skill in the art to modify Soeters into a modular system having a tote that lifts away from a base coupled to the floor of the vehicle. Appellants contend that Johnson appears to teach that wires extend through the housing and the speaker assembly such that mating components are not required. As such, according to Appellants, incorporating Johnson's teachings would not allow the console to be removed from the vehicle.

### SUMMARY OF DECISION

We AFFIRM.

### OPINION

#### *Rejection (A) – Obviousness based on Soeters and Larsen*

Appellants' contention that Soeters fails to have its latching mechanism "fixedly secured to a lower surface of the housing" as called for in claim 8 is unconvincing to show the Examiner erred in concluding that claim 8 is rendered obvious in view of the combined teachings of Soeters and Larsen. While an outer molded integral shell 28 forms the console 20 of Soeters, *see* Figure 1 and col. 2, ll. 10-16, a generally U-shaped crossbeam 52 connects the lower portions of the sides 22 in a conventional manner, col. 3, ll. 8-11. This U-shaped crossbeam 52 satisfies the claimed lower surface as set forth in the claim. As depicted in Figure 2 of Soeters, the structure 54, which Appellants have not contested as failing to satisfy the claimed latching mechanism, is fixedly secured to the lower left portion of U-shaped

crossbeam 52. As such, Soeters discloses a latching mechanism being fixedly secured to a lower surface of a housing as called for in claim 8.

Appellants' contention that combining Larsen's teaching of a strap with Soeters' console would merely lead to providing the console of Soeters with a tote that lifts away from a base coupled to the floor of a vehicle, is unconvincing to show that the Examiner erred in concluding that claim 8 is rendered obvious in view of the combined teachings of Soeters and Larsen. While Larsen does explicitly teach a strap connected to a tote to lift the tote from the center console of a vehicle, "[c]ommon sense teaches, however, that familiar items may have obvious uses beyond their primary purposes." *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398, 420 (2007). Soeters' console is designed to snap into the floor of the vehicle. *See, e.g.*, Abstract. Soeters suggests the console is removable, *see, e.g.*, Abstract, but does not provide an explicit reason for the removability. *Passim*. However, a person having ordinary skill in the art would appreciate the removability of the console in order to facilitate repair of the vehicle in case something became inoperative within the vehicle. Providing the strapping mechanism as taught Larsen to the center console of Soeters would permit a person having ordinary skill in the art to lift the console vertically upon release of the console from the brackets and carry the console to a location without marring any of the exterior surfaces of the console which could have easily marred material, for example, fine crafted leather work.

For the foregoing reasons, the Examiner did not err in rejecting claim 8 as rendered obvious by the combined teachings of Soeters and Larsen. Appellants do not separately argue claims 11 and 12. As such, claims 11 and 12 fall with claim 8.

*Rejections (B-D) – Obviousness based on Soeters, Larsen, Johnson, Grabowski, and Gaus*

Appellants' contentions are unconvincing to persuade us that the Examiner erred in concluding that claims 9 and 10 are rendered obvious by the combined teachings of Soeters, Larsen, and Johnson; claims 13 and 14 are rendered obvious by the combined teachings of Soeters, Larsen, and Grabowski; and claim 15 is rendered obvious by the combined teachings of Soeters, Larsen, Johnson, and Gaus. "[A] person of ordinary skill in the art will be able to fit the teachings of multiple patents together like pieces of a puzzle." *KSR*, 550 U.S. at 420.

Claims 9 and 10 recite that the latching mechanism includes power and sound contacts adapted to cooperate with mating power and sound contacts of the vehicle. Claims 13 and 14 recite a rechargeable battery, power inverter, a power contact adapted to charge the battery, and a 110V power outlet. Claim 15 adds to claim 8 a compartment with a cooling device and an electronic device.

Soeters discloses that power contacts within the latching mechanism and the power contacts on the console mate with the wire harness 19 of the vehicle when the console bracket is snap-fitted and plugged into the bracket located on the vehicle floor. Soeters, col. 3, ll. 24-30. As such, providing sound contacts proximate to the existing power contacts of Soeters based on the teachings of Johnson would be nothing more than taking an existing device and improving upon that device with a similar device in the same way, which involves nothing more than ordinary creativity well within the technical grasp of a person of ordinary skill in the art. *See KSR*, 550 U.S. at 417 ("[I]f a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar



devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill.”).

Similarly, providing the console disclosed in Soeters with the components recited in claims 13-15 based on the teachings of Johnson, Grabowski, and Gaus would be nothing more than taking existing devices and improving upon a device that is ready for improvement and would have been well within the technical grasp of a person of ordinary skill in the art, because the product of combining the teachings of Johnson, Grabowski, and Gaus to the console disclosed in Soeters is not of innovation but of ordinary skill and common sense.

For the foregoing reasons, the Examiner did not err in concluding that claims 9 and 10 are rendered obvious by the combined teachings of Soeters, Larsen, and Johnson; claims 13 and 14 are rendered obvious by the combined teachings of Soeters, Larsen, and Grabowski, and claim 15 is rendered obvious by the combined teachings of Soeters, Larsen, Johnson, and Gaus.

### CONCLUSION

Appellants’ remaining arguments in the Appeal Brief and Reply Brief have been considered, but do not demonstrate error in the Examiner’s conclusion of obviousness. Accordingly, we conclude that the Examiner did not err in concluding that the claimed subject matter is obvious to a person of ordinary skill in the art.

### DECISION

The Examiner’s decision to reject claims 8-15 as obvious is affirmed.



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No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2007).

AFFIRMED

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